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12 Shops, Inc. d.b.a. Marie Callender's #254

13 **UNITED STATES DISTRICT COURT**
14 **SOUTHERN DISTRICT OF CALIFORNIA**

15 OUTERBRIDGE ACCESS
16 ASSOCIATION, SUING ON BEHALF OF
17 DIANE CROSS; and DIANE CROSS, An
18 Individual,

19 Plaintiff,

20 vs.

21 MARIE CALLENDER'S PIE SHOPS,
22 INC. d.b.a. MARIE CALLENDER'S #254;
23 PACIFIC BAGELS, LLC d.b.a.
24 BRUEGGARS BAGELS; COURTYARD
25 HOLDINGS, LP; PSS PARTNERS, LLC;
26 AND DOES 1 THROUGH 10, Inclusive,

27 Defendants.

Case No. 07-CV-2129 BTM (AJB)

**NOTICE OF MOTION AND MOTION
FOR ORDER DECLINING
SUPPLEMENTAL JURISDICTION**

*[Memorandum of Points And Authorities,
Request for Judicial Notice and Appendix
of Foreign Authorities filed concurrently
herewith]*

Date: March 28, 2008

Time: 11:00 a.m.

Ctrm: 15

****Per Chambers, no oral argument unless
required by the court.***

Complaint Filed: November 7, 2007

Trial Date: None Set

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TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on March 28, 2008, at 11:00 a.m., or as soon thereafter as the matter may be heard in the above-entitled court, located at 880 Front Street, Suite 4290, San Diego, California 92101, Courtroom 15, Defendant Marie Callender Pie Shops, Inc. dba Marie Callender's # 254 ("Marie Callender's") will and hereby does seek a Court order declining to exercise supplemental jurisdiction over Plaintiffs Outerbridge Access Association and Diane Cross' state law claims.

This Motion is and will be based on the ground that retaining jurisdiction over state law claims in ADA lawsuits is inappropriate because it undermines California's ability to interpret its own laws and creates unnecessary expense and inconvenience for the Court and all parties to this lawsuit.

This Motion will be based on this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities, the Request for Judicial Notice and Appendix of Foreign Authorities filed concurrently herewith, the pleadings and papers on file herein, and such further arguments and papers as may be presented to the Court before or during the hearing.

Dated: January 29, 2008

CALL, JENSEN & FERRELL
A Professional Corporation
SCOTT J. FERRELL
LISA A. WEGNER

By: /s/Lisa A. Wegner
Attorneys for Defendant Marie Callender's
Pie Shops, Inc. d.b.a. Marie Callender's #254

CERTIFICATE OF SERVICE
(United States District Court)

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 610 Newport Center Drive, Suite 700, Newport Beach, CA 92660.

On January 30, 2008, I have served the foregoing document described as **NOTICE OF MOTION AND MOTION FOR ORDER DECLINING SUPPLEMENTAL JURISDICTION** on the following person(s) in the manner(s) indicated below:

SEE ATTACHED SERVICE LIST

☒ (BY ELECTRONIC SERVICE) I am causing the document(s) to be served on the Filing User(s) through the Court's Electronic Filing System.

☐ (BY MAIL) I am familiar with the practice of Call, Jensen & Ferrell for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On this date, a copy of said document was placed in a sealed envelope, with postage fully prepaid, addressed as set forth herein, and such envelope was placed for collection and mailing at Call, Jensen & Ferrell, Newport Beach, California, following ordinary business practices.

☐ (BY OVERNIGHT SERVICE) I am familiar with the practice of Call, Jensen & Ferrell for collection and processing of correspondence for delivery by overnight courier. Correspondence so collected and processed is deposited in a box or other facility regularly maintained by the overnight service provider the same day in the ordinary course of business. On this date, a copy of said document was placed in a sealed envelope designated by the overnight service provider with delivery fees paid or provided for, addressed as set forth herein, and such envelope was placed for delivery by the overnight service provider at Call, Jensen & Ferrell, Newport Beach, California, following ordinary business practices.

☐ (BY FACSIMILE TRANSMISSION) On this date, at the time indicated on the transmittal sheet, I transmitted from a facsimile transmission machine, which telephone number is (949) 717-3100, the document described above and a copy of this declaration to the person, and at the facsimile transmission telephone numbers, set forth herein. The above-described transmission was reported as complete and without error by a properly issued transmission report issued by the facsimile transmission machine upon which the said transmission was made immediately following the transmission.

☐ (BY E-MAIL) I transmitted the foregoing document(s) by e-mail to the addressee(s) at the e-mail address(s) indicated.

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2 [X] (FEDERAL) I declare that I am a member of the Bar and a registered Filing User
3 for this District of the United States District Court.

4 I declare under penalty of perjury under the laws of the United States of America
5 that the foregoing is true and correct, and that this Certificate is executed on January 30,
6 2008, at Newport Beach, California.

7 s/Lisa A. Wegner
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**Plaintiff, Outerbridge Access
Association, Suing on Behalf of
Diane Cross and Diane Cross, An
Individual**